

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA**

**UNITED STATES OF AMERICA,**

**Plaintiff,**

**v.**

**DEMARCO DEON WILLIAMS,**

**Defendant.**

**No. 04-CR-167-HDC**

**FINDINGS OF FACT & CONCLUSIONS OF LAW**

This matter came before the Court for a hearing on Plaintiff United States of America's Enhancement Information [Dkt. #45] and Defendant Demarco Deon Williams' Notice of Denial of the facts alleged in the Enhancement Information [Dkt. #104] on November 21, 2005. The Enhancement Information alleges three prior state drug offense convictions of Williams, which would mandate a sentence of life imprisonment under 21 U.S.C. § 841. Williams' Notice of Denial alleges that the state court convictions belong to a different Demarco Deon Williams. Williams' Notice also claims that § 851(e)'s prohibition on challenging the validity of convictions over five years old is unconstitutional, but Williams clarified at the hearing that he does not challenge the validity of the prior convictions, only his identity as the person convicted.

**FINDINGS OF FACT**

This matter is decided upon the exhibits and the credibility of the witnesses presented at the hearing. Williams' Notice of Denial put the facts in dispute regarding whether he was previously convicted of the alleged felonies. The United States presented its version of the facts, which the Court finds credible and supported by the evidence. Williams introduced no evidence at the hearing. Based on the evidence introduced at the hearing and under the standard provided for in 21 U.S.C.

851(c)(1), the Court finds that the United States proved the following facts beyond a reasonable doubt:

1. Tulsa Police Officer Jeff Henderson arrested Demarco Deon Williams<sup>1</sup> on October 5, 2004, which led to one of the counts of which the jury found Williams guilty.
2. During the booking process, Williams gave his date of birth as February 27, 1975 and his social security number as 440-76-9855.
3. A “Pen Pack” from the Oklahoma Department of Corrections for a Demarco Deon Williams with a date of birth of February 27, 1975 and the social security number 440-76-9855 reflects a conviction of unlawful possession of marijuana with intent to distribute, a felony, in the District Court of Tulsa County, Oklahoma, case number CF-93-4878, on November 18, 1993 and a conviction of unlawful possession of a controlled drug, a felony, in the District Court of Tulsa County, Oklahoma, case number CF-94-3899, on October 3, 1994.
4. The booking sheet from Williams’ October 5, 2004 arrest contains his right index fingerprint.
5. The Pen Pack from the Oklahoma Department of Corrections for a Demarco Deon Williams with a date of birth of February 27, 1975 and the social security number 440-76-9855 contains the right index fingerprint of the felon.
6. The same person made the right index fingerprint on Williams’ booking sheet and the right index fingerprint on the Pen Pack.

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<sup>1</sup>Unless otherwise indicated, references throughout to “Demarco Deon Williams” or simply “Williams” refer to the defendant in this case.

7. A copy of the Judgment and Sentence on Plea of Guilty for unlawful possession of marijuana with intent to distribute, a felony, in the District Court of Tulsa County, Oklahoma, case number CF-93-4878, names the defendant as Demarco Deon Williams with the date of birth of February 27, 1975 and the social security number 440-76-9855.

8. A copy of the Judgment and Sentence on Plea of Guilty for unlawful possession of a controlled drug, a felony, in the District Court of Tulsa County, Oklahoma, case number CF-94-3899, names the defendant as Demarco Deon Williams with the date of birth of February 27, 1975 and the social security number 440-76-9855.

9. A copy of the Judgment and Sentence for possession of a controlled drug, a felony, in the District Court of Tulsa County, Oklahoma, case number CF-99-4326, names the defendant as Demarco Deon Williams with the social security number 440-76-9855.

10. Demarco Deon Williams, the Defendant in this case, was the person convicted in the District Court of Tulsa County, Oklahoma of unlawful possession of marijuana with intent to distribute, a felony, in case number CF-1993-4878 on November 18, 1993.

11. Demarco Deon Williams, the Defendant in this case, was the person convicted in the District Court of Tulsa County, Oklahoma of unlawful possession of a controlled drug, a felony, in case number CF-94-3899 on October 3, 1994.

12. Demarco Deon Williams, the Defendant in this case, was the person convicted in the District Court of Tulsa County, Oklahoma of possession of a controlled drug, a felony, in case number CF-99-4326 on March 29, 2004.

### CONCLUSIONS OF LAW

Title 21 U.S.C. § 841(b)(1)(A) provides that a person found guilty of a violation of the section who has two or more final felony drug convictions shall be sentenced to life imprisonment without release. The jury found Williams guilty of two counts of possession with intent to distribute 50 grams or more of cocaine base (crack) in violation of 21 U.S.C. § 841(a)(1) and (b)(1)(A), counts 1 and 4 of the Superseding Indictment. Because Williams is guilty of violations of 21 U.S.C. § 841(b)(1)(A) and he has three final felony drug convictions, a sentence of life imprisonment is mandatory for Count 1 and Count 4.

**SIGNED** this 8th day of December, 2005.

A handwritten signature in black ink, appearing to read "H. Dale Cook", written over a horizontal line.

H. DALE COOK  
Senior United States District Judge